

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,  
Plaintiff,

v.

WILFREDO PICON-RIVERA,  
Defendant.

CRIMINAL NO. 98-291(SEC)

**UNITED STATES OF AMERICA'S MOTION REQUESTING  
CONTINUANCE OF SENTENCING HEARING**

TO THE HONORABLE COURT:

COMES NOW, the United States of America, by its attorneys and very respectfully informs and prays as follows:

1. On December 9, 2004, the Court issued an order re-scheduling the defendant's re-sentencing hearing for December 27, 2004.
2. The United States hereby requests a continuance of the pending sentencing hearing until February 2005.
3. The basis for the request is as follows. First, the United States Supreme Court is about to issue, in December 2004 or January 2005, a written opinion in the case of United States v. Fanfan, 125 S.Ct. 5 (July 21, 2004). This opinion will clarify the uncertainty raised by the Blakely decision as to the authority of the Judge to grant enhancements at a sentencing hearing. Furthermore, this pending decision will clearly and completely dispose of the issue raised by defendant's objections to his presentence report. In addition, the defendant will not suffer any undue prejudice

in having his sentencing hearing been re-scheduled for February 2005, because he remains free in the community.

WHEREFORE, in light of the above stated particular circumstances of the captioned case and the unclear applicable law to the main issue raised by defendant, the United States respectfully requests the Honorable Court to re-schedule the pending sentencing hearing to February 2005.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 9th of December, 2004.

H.S. GARCIA  
United States Attorney

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY, that on December 9, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Francisco Dolz, Esq.; and U.S. Probation Services.

At San Juan, Puerto Rico, December 9, 2004.

S/Desirée Laborde-Sanfioenzo

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